



AMERICAN ACADEMY of ACTUARIES

Objective. Independent. Effective.™

May 14, 2021

Honorable David Altmaier, Co-Chair
Honorable Dean L. Cameron, Co-Chair
Special (EX) Committee on Race and Insurance
National Association of Insurance Commissioners

Dear Commissioner Altmaier and Director Cameron:

On behalf of the American Academy of Actuaries,¹ I would like to offer additional input on the National Association of Insurance Commissioners' (NAIC's) Special (EX) Committee on Race and Insurance 2021 Proposed Charges. This is in addition to the [general comments](#) provided prior to the Spring National Meeting. The Academy continues to support the special committee's efforts pertaining to diversity and inclusion concerns in insurance coverages and in particular to identify and address unfair discrimination.

The following comments relate to **Workstream Three, property/casualty**. In the Academy Casualty Practice Council (CPC) [November 12 comments](#) to the special committee's Workstream Three, the CPC identified actuarial considerations related to unfair discrimination, including actuarial guidance such as the standard on *Risk Classification* (ASOP No. 12), data quality considerations, disparate impact analysis, and use of socioeconomic factors in auto insurance. We are pleased to see many of these considerations included in the special committee's charges.

As the special committee endeavors to identify and address the problem of unfair discrimination, a crucial step in any problem-solving exercise is to ensure that unfair discrimination is identified and defined. In charge F, we believe the opening prompt may imply that only proxy discrimination and disparate impact are to be defined. While these terms are important to understand, we believe an equally, if not more important, task is to identify and define unfair discrimination including consideration of disparate treatment. To ensure that unfair discrimination is included as a defined term and to specifically include disparate treatment within this charge, we suggest the following rewording in redline:

Charge F: "Continue research and analysis of insurance, legal, and regulatory approaches to addressing methods of identifying unfair discrimination, specifically proxy discrimination, disparate treatment, and disparate impact, by defining these terms and determining appropriate steps to address..."

¹ The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

In addition, we believe charge *F-2*

(Workstream Three) Developing analytical and regulatory tools to assist state insurance regulators in determining unfair discrimination including issues related to:

- a. The use of socioeconomic variables.*
- b. Identifying proxy variables for race.*
- c. Correlation vs. causation.*
- d. Disparate impact considerations.*
- e. Use of third-party data.*
- f. Appropriateness of data such as criminal history.*

could benefit from additional and modified language to emphasize that Workstream Three should also define, identify, and address unfair discrimination, and specifically reference property/casualty insurance issues that are the focus of Workstream Three. We also believe that any tools developed should focus on whether unfair discrimination is identified in the selection of risk classes or in the resulting rates by separately considering the inputs and outputs in the rating and underwriting process. Finally, we suggest reorganizing and combining some of the listed issues to help better frame the potential considerations related to unfair discrimination. The following is our suggestion for revising charge *F-2* that reflects the above comments (without redline for ease of readability):

Charge F-2 (Revised): (Workstream Three) Developing analytical and regulatory tools to assist state insurance regulators in defining, identifying, and addressing unfair discrimination in property/casualty insurance, including issues related to:

- a. Rating and Underwriting variables used (e.g., socioeconomic variables, criminal history), including:
 - i. Identifying proxy variables for race.
 - ii. Correlation vs. Causation—Including concepts of spurious correlation and rational explanation.
 - iii. Potential bias in underlying data.
 - iv. Proper use of third-party data.
- b. Disparate impact considerations.
- c. Principles of cost-based pricing.

For charge *G*, we would suggest a more descriptive term for “resources” to better define what resources are being identified. We also suggest that the NAIC create a governance structure for the proposed database to protect privacy and prevent misuse.

The following comments relate to **Workstream Four** regarding **life insurance and annuities**:

We believe that the charges identified in *F.2* as proposed by the special committee:

F. Continue research and analysis of insurance, legal and regulatory approaches to addressing unfair discrimination, specifically proxy discrimination and disparate impact, by defining the terms and determining appropriate steps to address, including:

2. (Workstream Three) Developing analytical and regulatory tools to assist state insurance regulators in determining unfair discrimination including issues related to:

- a. The use of socioeconomic variables.
- b. Identifying proxy variables for race.
- c. Correlation vs. causation.
- d. Disparate impact considerations.
- e. Use of third-party data.
- f. Appropriateness of data such as criminal history.

and I.2:

I. Direct NAIC and Center for Insurance Policy and Research (CIPR) staff to conduct necessary research and analysis, including: 2. (Workstream Three) The availability of producer licensing exams in foreign languages, steps exam vendors have taken to mitigate cultural bias, and the number and locations of producers by company compared to demographics in the same area.

would both also be appropriate for Workstream Four.

While we are supportive of the charges identified in H.2:

H. Continue research and analysis related to insurance access and affordability issues, including: 2. (Workstream Four) Disparities in the number of cancellations/rescissions among minority policyholders.

we note that they may be difficult to accomplish before the charges identified in G:

G. (Workstreams Three, Four and Five) Consider enhanced data reporting and record-keeping requirements across product lines to identify race and other sociodemographic factors of insureds. Consider a data call to identify resources and products sold in specific ZIP codes to identify barriers to access.

have been completed.

On behalf of the American Academy of Actuaries, I again appreciate your attention to our comments and hope to continue to work with you as you address diversity, equity and inclusion concerns going forward. If you have any questions regarding these comments that you would like to discuss, please feel free to contact me or Craig Hanna, the Academy's director of public policy, at hanna@actuary.org.

Sincerely,

Thomas A. Campbell, MAAA, FSA, CERA
President
American Academy of Actuaries

Cc: Andrew J. Beal, Michael F. Consedine, Kay Noonan